

1904-010
Lee Co

Chancery Causes: Cowan & McClung & Co] vs. William R. Johnson & Co

Johnson, McClung, Rhea, Thomas, Cope, Lewis, Burk, Hughes,
Bledsoe, Tomlinson, Tate, Burkhardt

CA - Debt
T - Property

- Deed

To the Hon.H.A.W.Skeen,Judge of the Circuit Court for Lee County:

Mumbly complaining,your orators,C.J.McClung,Jacob L.Thomas,Robert M.Rhea _____,surviving partners of the late firm of Cowan McClung and Co.,and still doing business under the old firm name,would respectfully represent and show unto your honor/that on the 29th day of January,1891 W.R.Johnson confessed judgement in favor of the said firm for the sum of \$996.86 with interest thereon from the 27th day of January,1891 till paid and \$9.04 costs,and that on the 21st day of March.1901 the said Johnson confessed judgement in the office of the clerk of the Circuit Court for another sum of \$580.33,with interest thereon from the 18th day of Aug.,1890,till paid ~~xxxxxxxxxxxxxxxxxxxxxxxx~~ and \$12.08 costs; on which there was afterward,to wit on the 25th day of Aug.,1892, paid the sum of \$300.00.

Your orator will furthur represent and show unto your honor that at the 1st May Rules,1893 C.M.McClung and Co.,who had also secured a judgement against said W.R.Johnson,brought their suit in chancery for the purpose of enforceing the judgement leins against the lands of said Johnson and fixing the priorities of the leins existing against the same. Several proceedings were had in said couese, among which there was a commissioner appointed who accertained the leins and their several priorities,and after the lein had been fixed a commissioner was appointed to make sale of the real estate belonging to the said W.R.Johnson and sale was made of several tracts of land to which the said Johnson had title as will appear from the proceedings in said cause. Out of the sales made in said cause your orators received the following payments:
July 28,1898,\$82.86
May 11,1899,\$20, Nov.23,1898,60.27, Nov.2,1899\$17.60, Nov,20,1897,\$81.90,Nov.16,1896,100.50,to go as a credit upon the judgement obtained first/aforesaid.

Your orators will furthur represent and show unto your honor that at the _____ term of the Circuit Court for Lee County said cause of ~~xxxxx~~ C.M.McClung and Co was dismissed,but with the privilege of being re-instated,because it was thought at that time

that said W.R.Johnson owned or had an interest in some other lands that, but your orators were not sufficiently advised at that time as to the interest which said Johnson had, and was therefore unable to take any steps in said cause in any definite manner for the purpose of having said land subjected to the payment of their debts, or sold in said cause to be applied to the claims in the order of their priority; but since the dismissal of said cause your orators have discovered that said Johnson was at the time of the dismissal of said suit and is yet the owner of an interest in a tract of land on which he then lived which was not sold, which interest came about in this way. ~~W.R.Johnson~~ Campbell Johnson was the owner of the said land mentioned and several years previous to the rendition of the judgement of your orators, he departed this life leaving as his heirs at law the following sons and daughters, to wit, James C. Johnson, W.R. Johnson, Walter Johnson, E.M. Johnson, Thomas Johnson, Nancy B. Hughes, Julia Ann Bledsoe, Lydia A. Tomlinson, Rebecca Tate, Eliza (or Liza) Lewis and Sallie Burk. By a deed dated the 4th day of January, 1887 six of said heirs of said Campbell Johnson, to wit, Walter Johnson, Nancy B. Hughes, Julia Ann Bledsoe, Lydia A. Tomlinson, E.M. Johnson and Thomas Johnson conveyed their interest in said land to James C. Johnson; and thereby said J.C. Johnson became the owner of 7-11 of the whole, 6-11 by purchase and 1-11 by descent. By deed of conveyance dated the 2nd day of Sept, 1890, James C. Johnson and wife conveyed to W.R. Johnson all the interest which the said J.C. Johnson owned in said land; a copy of which deed is here filed as part hereof, and asked to be taken as part of this bill. This conveyance gave to the said W.R. Johnson 8-11 of the whole interest. By reference to the Commissioners report filed in the said cause of C.M. McClung & Co., vs. W.R. Johnson, it will be seen that it is stated that said Johnson claims to own the whole interest in said land, but has no conveyance from Rebecca Tate, Eliza Lewis and Sallie Burk, but he alleges in that cause that he does own the whole interest. Your orators have been advised that said Eliza Lewis claims that she has never sold here interest to said Johnson, but only promised to let him have

Same if he would pay her for it, which said Lewis claims that he has not done. Your orators believe that said Johnson has bought and paid said Sallie Burk and Rebecca Tate for their share in said land. Your orators would further represent and show unto your honor that said W.R. Johnson has built considerable improvements upon said land, and they are advised that said improvements amount to something like \$1500.00, and are advised that in the event of the necessity of a partition to assign to said Liza Lewis her share in said land that it should be laid off to her without reference to the said improvements made by said Johnson.

Your orators will further represent and show unto your honor that W.R. Johnson, Sallie Burk and Lidia A Tomlinson, now Burkhart and said Rebecca Tate, now Rebecca _____, are not residents of the State of Virginia, and ask that they may be summoned to appear by order of publication in due form of law.

The prayer therefore of your orators is that W.R. Johnson, & Rebecca _____, Sallie Burk, Eliza Lewis be made parties defendant to this bill of complaint and that they be required to answer the same fully but not under oath, that this bill be treated as a petition for the revival of the said cause herein before referred to, and if legal to do, ^{So} a petition in said cause after revival, in order to save costs both for said defendants and for the plaintiffs, that said W.R. Johnson be required to answer what title he has to the three shares he claims to own, that said Sallie Burk, Rebecca Tate and Eliza Lewis be required to say whether or not they have sold their interest to said Johnson, and be required if they have, to make him title to same, that upon the settling of the title to said 3 interest in said land, that the interest of the said W.R. Johnson therein be sold and the proceeds applied to the liens as heretofore ascertained in said cause according to the priorities there fixed. And may all other further and general relief be granted your orators that the nature of their cause and good conscience sanctions, and they will ever pray &c.

Plumington Noa

January 2nd 1902

Plffs Costs

Pl. Money Clerk {5.57
#8.88-
July 23, 1901 Tax {1.50}

Shoff .50

Atty 15.00

Printer 5.00

Estimated 5.00

\$32.57

Co. 75

Cawson McElung Hes.

vs In Chancery

N.R. Johnson vs

1901 2nd Sept rules Bill
filed & pa executed on
home deflt & Order Pub
as to nonresidents & D.N.
" 1st Oct rules O.P. Complete
D.N. Confirmed & Cause
set for hearing

E.W. PENNINGTON

ROBT L. PENNINGTON

Pennington Bros.

ATTORNEYS AT LAW

JONESVILLE AND PENNINGTON GAP VA

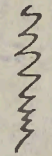
Cowan, McClung & Co., Complainant,)	
)	
vs)	In Chancery.
)	
W.R. Johnston et al, Defendant.)	

This cause came on this day to be heard upon the papers formerly read therein and the report of special commissioner R.L. Pennington in this cause on the 9 day of February, 1904, showing that Sallie Johnston, the purchaser in this cause, has paid all of the purchase money due by her, and that said commissioner has disbursed the same according to the parties entitled thereto, and was argued by counsel. On consideration of all of which, it is adjudged, ordered and decreed that the said report be and the same is hereby confirmed, and R.L. Pennington, who is hereby appointed a special commissioner for the purpose, will make, execute and deliver to the said Sallie Johnston a deed of conveyance with covenant of special warranty conveying to her the tract of land sold in this cause and purchased by her. And it now appearing to the court that R.L. Pennington, who is hereinbefore directed to make and execute to Sallie Johnston a deed of conveyance for the tract of land purchased by her in this cause, has made said deed and reported the same to the court, and the said deed and said report being unexcepted to, the same are hereby approved and confirmed, and the said Sallie Johnston will pay to the said R.L. Pennington, commissioner, the sum of \$5.00 for making said deed upon the payment of which sum of money, said Pennington will deliver said deed to said Sallie Johnston and for which said sum of money execution may issue against Sallie Johnston.

And it further appearing to the court in this cause, that William R. Johnston has purchased from Sallie Burke and Rebecca Cope their undivided interest in the real estate of their father, situated in the "Pocket", and that they have not conveyed their

several interests to the said William R. Johnston according to the sale made to him. It appearing to the court that said Johnston has fully paid them for their interest in said land, which is a one eleventh undivided interest each in the lands of Campbell Johnston, deceased, it is further adjudged, ordered and decreed that R.L. Pennington, who is hereby appointed a special commissioner for the purpose, will make, execute and deliver a deed of conveyance with covenant of special warranty conveying to the said William R. Johnston for and on the behalf of said Sallie Burke and Rebecca Cope all their undivided right, title and interest in and to said tract of land, and for his services in performing the execution of the said deed, he will retain out of any funds in his hands in this cause, the sum of \$5.00, and will report his action to this court. And it further appearing to the court that the said R.L. Pennington, who was hereinbefore directed to make, execute and deliver to William R. Johnston a deed of conveyance conveying to said Johnston the undivided interest of said Sallie Burke and Rebecca Cope, ~~that he~~ has made the said deed therein directed to be made and reported the same here to the court, and the same being unexcepted to, is hereby approved and confirmed, and the said Pennington will deliver said deed to Johnston that same may be recorded in the proper place. And this cause is, *Continued* ~~by the court to the next term of the court~~

Cowan McLaughey

✓  Secrecy

Wm. R. Shumaker

Eu. C. B. No. 7. p. 391

Eu. this 7 July
16, 1904

H. W. Shumaker

Leonora McLung Ho.

Thouloff

vs.

N^m R. Johnston et al.

Defendants.

This case came on this day to be heard upon the papers formerly read therein & the report of R. R. Dunnington Special Commissioner, filed herein on the 20th day of July, 1902, showing sale of the land & heretofore decrees to be paid, to Sallie Johnston at the price of \$398⁰⁰/₁₀₀, & no exceptions to said report; & was argued by counsel; On consideration of all which, it is adjudged, ordered & decreed that said report of said R. R. Dunnington be & the same is hereby confirmed & the said sale is hereby confirmed to said Sallie Johnston & the said Dunnington will collect the purchase money notes as they fall due & this case is continued.

Cum M. Clancy 100

to $\frac{3}{4}$ Secre

W. R. Johnston 100

Entered on C.O.B. No 7

P. 59.

Enter this Mch

3, 1902.

H. C. W. Green

Cawson McElung & Co. Complainants
vs. An Chancery

H. R. Johnston - Rebecca Cope Defendants
Sallie Burk & Lizzie Lewis

This cause came on this day to be heard upon the bill of the complainants & exhibits filed therewith & the ad Chancery cause of C. M. McElung & Co. vs. H. R. Johnston, and the said defendants H. R. Johnson, Rebecca Cope, & Sallie Burk the non resident defendants ^{order of Publication} ~~being~~ against whom ~~process~~ has been duly made & published in the law offices, & they failing to appear plead or answer, the said bill of the complainants is then for confessed as to them: And the matters in valued being argued by counsel it is ~~adjudged~~ ~~ordered~~ ~~and~~ ~~decided~~ and it being admitted by the plaintiffs that Lizzie Lewis has not sold her interest in the lands mentioned in the bill, the Court is of opinion that this suit should in no way affect her interest therein, but it appearing to the Court that H. R. Johnson has purchased the interest of Sallie Burk & Rebecca

before the court is of opinion that
the ~~judgments~~ ^{judgments} are reported & uncollected
as appears by the said
Coun of ~~Cases~~ ^{C. M. McClung & Co}
vs. H. R. Johnston are liens upon
said interests of said Johnston
as well as the interest which
by the said Johnston inherited
from his father; and it being
admitted that the interests which
H. R. Johnston bought of J. C. Johnston
has been heretofore sold from said
Johnston in a suit to enforce the vendor's
lien retained by J. C. Johnston, ~~this~~
the court is of opinion that this
suit should in no way affect
said interest in said land.

It is therefore adjudged
ordered & decreed that R. A. Pennington
who is hereby appointed a
special commissioner for the purpose
who will, under the judgments
reported in said coun of ~~Cases~~ ^{C. M.}
McClung & Co. vs. H. R. Johnston be
paid within 30 days from this
date, after having advertised the
time & place of sale for
30 days by written or printed

notices posted at the front door
of the Court house of the County
in the neighborhood of said
lands & in the town of
Punnampton Hops, Vaⁿ proceed to
make sale of the said $\frac{3}{11}$ th
interests in said lands so owned
as aforesaid by said H. R. Johnson
at public outcry to the highest
bidder at the front door of the
Court house of the County on
a credit of 6, 12 & 18 months
bearing interest from date of sale,
except a sum sufficient to pay
the costs of this suit & expenses
of sale which he will require
to be paid in hand & for the
deferred payments he will take
bonds secured by good personal
security payable to himself or such
Court. But before returning before
the Court he requires of him he
will execute bonds before the Clerk
of this Court in the penalty of \$500⁰⁰
conditioned on the bond required
in such cases, & said Punnampton
will report his action to this
Court & this Court is continued.

Learn M. Clary & Co

No 3 ~~Learn~~
for ~~Learn~~
H.R. Johnston & Co.

Entered on ledger O.B.

No 7 Page 30

Enter this

Nov. 14, 1901.

H. A. W. H. H.

Lesum McLung & Co.

vs

W.R. Johnson, ex.

To the Hon. H.A. W. Shum Judge
of the Circuit Court for the Co.:-

Your undersigned Special
Commr. in the above styled Chancery
Cause pending in your Honor's
Court, begs leave to report as
follows:-

That, Pursuant to a decree
rendered at the Nov. 1901 of your
Honor's Court he was directed
after advertising the time terms
& place of sale to proceed to make
sale of the 3/4 interest of W.R.
Johnson in the a/c "Creswell"
Johnson Tract of Land, & after
having duly advertised the time
terms & place of sale at the front
door of the Court House of this
County on the 17th day of May
1902, your Court proceeded in
the presence of a large crowd to
offer said land for sale on
the terms mentioned in said
decree, and after trying the
said sale for some time
the same was knocked off to

99.52
 99.52
 99.52
 298.56
 100.00
 398.57

Sallie Johnston of the price of
 \$398.57. The said Johnston paid
 down the sum of \$100⁰⁰ &
 executed notes in 3 equal installments
 for the balance due in Six, 12 &
 18 Months from date thereof with
 interest from date with W. L. Lee,
 Kilbourn & Co for the balance.
 Your Comrs regards the sale
 made a fair price for the property
 & hereby recommends the acceptance
 of the same.

This July 8, 1902.

Robt L. Huntington Sec Com

Crown M. Clancy & Co
vs $\frac{3}{4}$ Refers of Lane
H. R. Johnston & Co
Filed Feb 20, 1902
A. B. Munsey Clerk

The deed of trust is
2nd in priority on this
land.

Purchase money	1 st
Deed of trust	2 nd
Judgment	3 rd

Robt H. Cunningham Corner -
 Dr acct with Com of Commrs M. Seligman & Co - 7.

		William R. Johnson et al -	Dr.	Cr -
1902		To Crk of Sallie Johnson	10000	
Feb 17		By Crk of Cras to Sallie Smith -		3257
		" " Crk of R. H. Cunningham for plffs -		2000
		" " Crk of Sallie Johnson by Whipple		4743
1903		To Crk of Sallie Johnson by Whipple	10352	
Oct 21		By Crk of R. H. Cunningham for plffs -		10352
Oct 21		To Crk of Sallie Johnson -	21000	
1903		By " for R. H. Cunningham for plffs -	41352	21000
Feb 3				41352

Cowan, McClung & Co)

vs.)

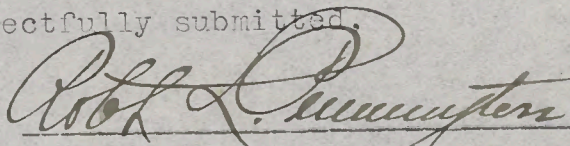
W.R. Johnston et al)

Report of Commissioner.

To the Honorable H.A.W. Skeen, Judge of the Circuit
Court for Lee County:

Your undersigned special commissioner begs leave to report that Sallie Johnston, the purchaser of the tract of land sold in said cause, has fully complied with the terms of her purchase and paid the whole of said purchase price. She is now entitled to a deed of conveyance for said tract of land. Your commissioner here files as part of this report, a statement showing the amount which he has received and paid out in said cause, and having fully performed the duties required of him, asks to be relieved from further responsibility as commissioner in said cause.

Respectfully submitted.



Special Commissioner.

Cornr McCune

✓ Cornr Rep -
of the

N. R. Johnson & Co

Filed Feb 9 1904

H. C. T. Ewing Clerk

This deed made this Sept, 2nd, 1890, by and between James C. Johnson & Amanda Johnson his wife of the first part & Wm. R. Johnson of the 2nd, Part all of Lee & State of Virginia. Witnesseth that the Parties of the first Part for the consideration of the sum of seven hundred & seventy dollars \$320. hand paid the receipt is hereby acknowledged & \$450. secured by notes doth grant bargain sell and convey unto the Party of the 2nd, Part a certain tract or parcel of land lying and being in aforesaid county & State in the Pocket country on the waters of Strait creek on big-branch and bounded as follows.

Beginning on a large chestnut oak & 2 small hickorys corner to E. L. Hughes land N. 37 E. 12 poles to two black gums on top of a ridge N. $43\frac{1}{2}$ E 10 poles to a hickory N. 81 E. $83\frac{3}{4}$ poles to sarvis, hickory & spotted oak N. $57\frac{3}{4}$ E 6 poles to hickory chesnut & gum on top of a ridge N $71\frac{1}{2}$ W. $87\frac{1}{2}$ poles crossing the big branch at the end of $57\frac{1}{2}$ poles to a large rock N. with with the meanders of the spur to a stake on top of aforesaid spur then, S. Westwardly with meanders of spus passing grave yard to E. L. Parsons maple corner at the end of W. R. Johnson's garden then up big-branch to a spruce pine (some 15 poles) to Ed Parsons corner) then with E. L. Parsons line Southwardly crossing the Ridge to his corner then Eastwardly with the old line to the Beginning containing some seventy five acres more or less. And also another tract said to contain (40) acres more or less & lying on same branch but not adjoining & Bounded as follows viz: Beginning on two chestnut oaks & sourwood corner to E. T. Evans land in the Doss line then Southwardly to a chestnut oak corner to G. B. Jones land, then Eastwardly along the meanders of the ridge some 55 poles to a double maple then Eastwardly some 10 poles to a cucumber on the west side of the branch, then Eastwardly to a sarvis some seventy to ninety poles on top of Lone Mountain corner to Henry J. Morgan & Henry Woodward's land then Northwardly with Woodward's line to E. T. Evans corner a chestnut on top of Loan Mountain, then Westwardly strait line to the beginning to have and to hold the same with all its appurtenances for ever, & the party of the first part binds themselves to warrant generally the land hereby conveyed, & the party of the first part reserves to themselves a vendors lien on the

afoersaid land till the purchas money is fully paid witness our signatures
& seal day and year first written.

J.C.Johnson (Seal)
her
Amanda X Johnson (Seal)
Mark

##

Virginia, Lee County to-wit;

I V.H.Kelly a Notary Public in and for the County and State afore-
said do certify that James C.Johnson and Amanda Johnson his wife whose names
are signed to the foregoing writing bearing date Sept.the 2nd,1890 have each
acknowledged the said writing before me in the county aforesaid to be their
act & deed.Given under my hand the 2nd,day of Sep,1890.

V.H.Kelly Notary Public.

Virginia, Lee County to-wit;

In the office of the clerk of the said County the 3rd,day of Sept,1890
This deed was presented,and is on this 24th, day of March 1891 together with
the certificate thereto annexed admitted to record.

Teste; John R.Gibson Clerk.

A copy Teste; *B. M. Morgan* ---Clerk.

(D.B.No.26, Page 471.)

J. C. Johnson et al
vs { Deed.

W. R. Johnson

Clear copy 2/5c

In the Clerk's Office of the Circuit Court of the County of
Lee on the 15 day of Aug 18901.

Wesley M. Clary, Sec.
against

Plaintiff,

Wm R. Johnson & Co

Defendant.

The object of this suit is to attach title to 3/4 of a tract of
land formerly owned by Lemuel Johnson now owned
by Wm R. Johnson & Co to have the whole of said tract
sold to satisfy the judgment-lens existing against said
lens.

And an affidavit having been made and filed that the defendant Rebecca Cope & Sallie
Burke ~~and~~ W. R. Johnson ~~are~~
not resident of the State of Virginia, it is ordered that They do appear here within 10 days
after due publication hereof, and do what may be necessary to protect their interest in this suit. And
it is further ordered that a copy hereof, be published once a week for four weeks in the Pennington Gap
News, and that a copy be posted at the front door of the court-house of this
on the first day of the next term of the County ~~Circuit~~ Court.

A copy—Teste:

Pennington Gap

p. q.

A. B. Murray

Clerk.

Cowan Mc blung & Co

vs. }

ORDER OF
PUBLICATION.

Wm. R. Johnston et al

Virginia Lee County to-wit;
I A B Munsey Clerk of the
Circuit Court for Lee County
Virginia, do hereby certify
that I posted a copy of the
within at the front door
of the Court house of Lee
County on the first day
of the September Term
of the County Court of
said County.

Given under my hand
this the 3rd day of Oct
1901.

A B Munsey Clerk

In the Clerk's Office of the Circuit Court of the County of
Lee

against Leowan McElhune & Co Plaintiff, In Chancery

vs Wm R Johnston et al Defendant &.

This day R. L. Pennington personally appeared
before me A. B. Munsey Clerk of the said Court,

and being duly sworn, made oath that Rebecca Cope and
Sallie Burk & H. R. Johnson
defendant in the said suit are not residents of the State of Virginia,

Given under my hand as Clerk of the said Court, this 15th day of August 1901.

A. B. Munsey Clerk

Cowan McElung & Co

us. { AFFIDAVIT FOR ORDER
OF
PUBLICATION.

W^m R Johnston et al

Permington Bros & Co. p. q.

Filed August 15th 1901
A J Munsey Clerk

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*M^r R Johnston, Rebecca
Cope, Lizzie Lewis and Ballie Burk*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the
said court, on the *3rd* Monday in *September* 1901, to answer a bill in

chancery exhibited against *them* in our said court by *Mathew McElung
Charles J. McElung, Robt M Rhea and Jacob L Thomas
Merchants & partners in trade under the firm
name of Lewis McElung & Co*

And have then there this writ. Witness, A. B. Munsey, Clerk of our said Court, at the court-house,

the *15th* day of *August* 1901, and in the 12^{6th} year of the Common-
wealth.

A copy, Teste:

A B Munsey Clerk.
Clerk.

Seave Copy on
Mr. R. Johnston

Shff of Lee

Carvan Mcbling Co

VS.

SUBPOENA
IN CHANCERY.

Mr R Johnston et al

Permington Bros p. q.

To 2nd September Rules.

1901. Circuit Court.

Sept 16th 1901

Not Executed

Not found

Eed Evans

Deputy for

W. J. M. L. H. A. M.

S. L. C.

CERTIFICATE.

I hereby certify that the within
Legal notice was published four
consecutive weeks in the PENNING-
TON GAP NEWS, a weekly News
paper published in this State, be-
ginning ^{the 26th} and ending
October the ^{18th} 1901.

W. R. Johnson Esq.
Lee \$6-00

In the Clerks office of the County court
of the county of Lee on the 15 h day of
August, 1901.

Cowan McClung & Co, Plaintiffs, vs
W. R. Johnson et al Defendants, in Chan-
cery.

The object of this suit is to extract title
to three elevenths of a tract of land for-
merly owned by Campbell Johnson, now
owned by Wm.R. Johnson and to have the
whole of said tract sold to satisfy the
judgment liens existing against said land.

And an affidavit having been made and
filed that the defendant Rebecca Cope,
Sallie Burk and Wm.R. Johnson are not
residents of the State of Virginia, it is or-
dered that they do appear here within
fifteen days after due publication hereof,
and do what may be necessary to protect
their interests in this suit. And it is fur-
ther ordered that a copy hereof, be pub-
lished once a week for four weeks in the
Pennington Gap News, and that a copy be
posted at the front door of the court-house
of this county on the first day of the next
term of the County Court.

A copy -Teste:

Pennington Bros p.q. A. B. Muncy Clerk.

Leowan McElung Esq

200 } Order

100 }
100 }

October the
and ending
1801
published in this State
for George
of several weeks in the Pennings
last notice was published four
I have a notice that the within
CERTIFICATE